

1 is residential billing up in through there, and they do have
2 commercials up there. One day that may be valuable. Right
3 now it's not.

4 Q But if you have a company or a customer who was
5 located primarily in the Allen area, then the Allen site
6 would be the most valuable of the three sites, is that
7 correct?

8 A Correct. If that's his area of operation and he's
9 there, and that's his area of operation, Allen would carry
10 the bulk of the revenue. And then if he used Dallas, Dallas
11 would get the secondary, and that could be a dollar, dollar
12 and a half, maybe \$2, or even three; no more than three.
13 And if he uses Fort Worth, it would be -- most of the time
14 if he uses Allen, he doesn't use Fort Worth. For some
15 chronological reason, they don't. They use Dallas as a
16 secondary.

17 Q Who prepares the bills for the customers?

18 A The name of the individual or the position in the
19 company? I mean, desk at the company? At that period of
20 time, Lutz prepared the billing for the customers.

21 Q You mean -- by "that period of time" you mean
22 1995, 1996?

23 A Yes, ma'am.

24 Q Who does it now?

25 A Front desk employees by the name of Ruth and her

1 sister, and I don't know their names.

2 Q So it's usually the person that works the front
3 desk --

4 A Yes.

5 Q -- that does it?

6 A Mm-hmm.

7 Q And I believe you stated that payments on
8 accounts, payments that come in from customers are deposited
9 into the DLB account?

10 A Yes.

11 Q Okay. Do you keep a current breakdown regarding
12 profit and expenses of each station?

13 A Of each station, no.

14 Q Do you keep a current breakdown regarding profits
15 and expenses of each site?

16 A No. We've had to go back and construct that, but
17 we -- it can be done. It can be done in just a matter of a
18 day. If someone said, I want to know what the Allen site is
19 drawing this month, it can be done.

20 Q Okay.

21 A In a very short period of time. If you want to
22 break it down by repeater, we just have to calculate it out.

23 Q But you don't normally in the normal course of
24 business keep profit and expense breakdowns for any
25 particular category?

1 MR. ROMNEY: Objection.

2 BY MS. LANCASTER:

3 Q Not by site, not by customer, not by usage?

4 MR. ROMNEY: Object to the form of the question;
5 vague and ambiguous.

6 JUDGE STEINBERG: I don't -- why don't you do it
7 one at a time?

8 BY MS. LANCASTER:

9 Q As I understand your testimony, you do not keep a
10 breakdown of the profits and expenses by site formally, in
11 the normal course of business?

12 A No, normal operation.

13 Q And you don't keep such a breakdown of profits and
14 expenses by stations --

15 A That's correct.

16 Q -- in the normal course of business?

17 A Normal course of business.

18 Q Okay. Do you regularly in the normal course of
19 business provide any kind of notification to the licensees
20 whose stations you manage -- let me strike that. Let's go
21 back and cover the basic question. It's my understanding
22 that DLB manages stations on behalf of licensees, is that
23 correct?

24 A Of -- of the ones that you talk about here in
25 Allen?

1 Q Sure.

2 A Yes.

3 Q Yes. And by that we're talking about O.C.

4 Brasher's station, the Sumpters' station, Carolyn Lutz's
5 station?

6 A Yes, ma'am.

7 Q In the normal course of business, does DLB send
8 any type of notification to any of the licensees regarding
9 the profits and expenses, profits made by or expenses
10 incurred on behalf of their stations?

11 A We furnished in --

12 MR. ROMNEY: I'm sorry, Your Honor. I don't mean
13 to be overly technical about it. Counsel has been using
14 this phrase "profits and expenses." Profits is a product,
15 as I understand it, of revenues exceeding your expenses.
16 And I find it confusing and I think it's -- I don't know
17 whether it's confusing for the witness but there is a
18 difference between a revenue and a profit.

19 You have revenues and you have expenses, then you
20 have profits if there is more revenue than expenses. If
21 not, you have a loss, as I understand it. And I would
22 appreciate a clarification on these questions.

23 MS. LANCASTER: I have no problem with restating
24 the question that way.

25 BY MS. LANCASTER:

1 Q In the normal course of business, is any statement
2 or information sent to the licensee of the stations that you
3 manage regarding revenues, expenses and/or profits incurred
4 or expended on behalf of the stations, that person's
5 station?

6 A Let's take one at a time.

7 Q Okay.

8 A Let's take revenue.

9 Q All right.

10 A During this period of time --

11 Q Well, I'm going to cover both periods of time, but
12 let's start with the current, let's start with now. Was
13 anything sent to any of the Sumpters now regarding the
14 revenues and expenditures made or received or made on behalf
15 of their station, for their station?

16 A Remember since '98 now, I'm not involved, so I
17 couldn't answer what is done now.

18 Q Okay. In 1998, was anything sent to the Sumpters
19 as part of a regular basis regarding the revenues made and
20 the expenditures made on behalf of their stations?

21 A '98, I would not know, but go back to '97.

22 Q Okay.

23 A That's the area that I'm familiar with there.

24 Q Okay. In 1997, that's the last -- that's the most
25 current date that you have knowledge of --

1 A Yes.

2 Q -- is that what you are telling me? Okay, let's
3 go back to then, 1997. Same question.

4 A Would the Sumpters be notified of the revenue?

5 Q Yes.

6 Q By stations?

7 Q Of their station.

8 A They would know --

9 Q And the expenditures made on behalf of their
10 station.

11 A They -- yes. They -- not by individual stations
12 but by the total, yes, in the daily work that went to the
13 Sumpters to reconcile our books, it was a list of every
14 customer who that month was billed by customers and
15 customers codes, the revenue. And then the sales tax and
16 everything else was there.

17 Q So if I understand your testimony, the
18 notification that you are talking about would be -- they
19 were sent as part of the monthly documentation that went to
20 Jim Sumpter as accountant for DLB.

21 A Correct.

22 Q The documents, all the documentation was included
23 in that?

24 A Correct.

25 Q And that constitutes the only notice that any of

1 the Sumpters received, is that correct

2 JUDGE STEINBERG: From the -- from Ron?

3 MS. LANCASTER: From DLB.

4 JUDGE STEINBERG: Yes.

5 THE WITNESS: Now, remember, the accounting for
6 the T-band systems was created by Jim Sumpter.

7 BY MS. LANCASTER:

8 Q Yes, sir, but just answer my question first, okay?

9 A State that again.

10 Q Would the monthly -- the information that was
11 contained in the monthly documents that you sent, that DLB
12 sent over to Jim Sumpter as the accountant, my understanding
13 is your testimony -- you are saying that that included the
14 revenues and expenditures made on behalf of Jim Sumpter's
15 station, for example, is that correct?

16 A His station was included.

17 Q And that included the notice to Jim Sumpter of the
18 status on his station, the financial status?

19 A Not his individual station, but all stations.

20 Q Okay. Well, how did he find out about what was
21 going on regarding his station?

22 A How would he?

23 Q Mm-hmm.

24 A Just give us a call or come by the office, which
25 he often did, and we could show him where his station was

1 and what -- what codes and everything else was assigned to
2 his station and what revenue from that location. There is
3 codes in every -- every repeater that tells what customers
4 are using -- have access to that repeater.

5 Q Yes, sir. But my original question was in the
6 normal course of business, in the normal course of business
7 did you regularly send out any kind of notification to the
8 licensees of the stations that you managed informing them of
9 the revenues and expenditures made regarding their station?

10 A For each individual station monthly?

11 Q Yes.

12 A No. Okay. The only thing, as I understand your
13 answer, the only thing that would have gone to any of the
14 Sumpters would have been the monthly documents that went to
15 Jim Sumpter as DLB's accountant at that time?

16 A Correct.

17 Q Okay. And would that hold true from 1996 up until
18 1997, when you are saying is the last time you had personal
19 knowledge?

20 A Correct.

21 Q Okay. And I believe your testimony is you don't
22 know after 1997?

23 A No, I --

24 Q I believe you testified earlier that Jim Sumpter
25 retired as your accountant or resigned at the end of 1997,

1 is that correct?

2 A That's correct.

3 Q How about with Carolyn Lutz, was she ever provided
4 any information regarding the revenues received and the
5 expenditures made on behalf of her station?

6 A She had access to it because she created the
7 invoices and also at the same time she maintained the
8 control sheets by what station received what on the
9 customers billing, what the customer used. She had access
10 to it and she helped set that up.

11 Q I believe that she had access to the accounts
12 receivable. Are you saying -- is it your testimony she also
13 had access to the accounts payable?

14 A Accounts payable? Will she see the invoices
15 coming in for billing, I mean, for payment and stuff like
16 that?

17 Q Yes.

18 A Yes, she would see them.

19 Q And she would know how much money she had -- she
20 would know how much money was paid out each month for her
21 particular station?

22 A No, no, not paid out for her particular station.

23 (Pause.)

24 Q Mr. Sumpter -- Mr. Sumpter, I'm sorry. Mr.
25 Brasher, if you were to sell any of the Allen stations

1 today, what price would you expect to get for any station?

2 (Electronic interference.)

3 A Knowing what I know about the market right now,
4 not much.

5 Q What's "not much"? What would be your minimal
6 acceptable offer that you would take?

7 A And I keep the equipment, a couple thousand,
8 maybe, because there is --

9 Q Well, there is no -- you're not -- you don't have
10 a station if you don't include the equipment, do you?

11 A Yeah. The license is the station, ma'am. The
12 license in the station.

13 Q So normally they are sold without the equipment?

14 A Yes.

15 Q Okay. So you're saying if someone walked up to
16 you off the street and they would say, we want to buy Jim
17 Sumpter's station, we would like for you to assign it to us,
18 you would just say, give me a check for \$2,000, and you
19 would sign it right over?

20 A No. Let's say they came up to the station that I
21 own in Allen, not Jim Sumpter's because I can't sell Jim
22 Sumpter's.

23 Q Understandable, but I'm asking you if it were your
24 station --

25 A What would I say?

1 Q -- you could sell it for?

2 A Give me a price, that's what I would ask him. If
3 he said, \$2,000, I'd say, give me the check right now,
4 because there is 69 channels I can get right now.

5 Q So there are lots of other ones.

6 A Yes, ma'am.

7 Q You would just replace it.

8 A And I won't have to pay --

9 Q Would you replace it?

10 A Darn right, for \$2,000. All I have to do is file
11 a coordination fee and FCC license and go.

12 Q Okay. But you wouldn't just do away with it. You
13 would still go back and get another station at Allen?

14 A It depends. It depends on how much more I can
15 pack into the existing -- because I've got to remove --
16 think about the time I've got to remove the repeater site
17 cost, and see, that's something I have got to remove.

18 Q I want to talk briefly about the duties of the
19 various officers at DLB just a few more minutes. Back in
20 1996, who did the hiring for DLB?

21 A '96, would be Pat and probably Diane working
22 together.

23 Q Who does it now, or as of 1997, when you left who
24 does it?

25 A In 1997 or now?

1 Q Do you know who does it now?

2 A It would have to be Diane and David.

3 Q So it would be Diane and David now. In 1997, who
4 would it have been?

5 A The first part of 1997, it would be Pat and Diane.

6 Q So Pat has given up that specific duty to Diane?

7 A Yes. Diane and David spend more time there than
8 we do.

9 Q Okay.

10 A But every firing has to come through Pat, even
11 now.

12 Q Okay.

13 A We don't have a lot of that. It has to be -- and
14 we don't have a lot of employment either. It's pretty
15 stable. So you know, how many we hired and fired in the
16 last couple of years have been very, very small.

17 Q How many people have you fired since 1996? Do you
18 know?

19 A Two, and it was not me. You said --

20 Q Well, not you. I mean DLB, how many people has
21 DLB --

22 A Two, two that I know of.

23 Q And who made the decision to fire them?

24 A The final decision?

25 Q Mm-hmm.

1 A Pat.

2 Q Who makes those decisions now?

3 A Final decision on firing anybody, it's still Pat.

4 Q Mm-hmm. Who has keys to the Allen site?

5 A Keith Krohn, the service manager, and it's a card,
6 I think, or a combination to the gate.

7 Q Anybody else?

8 JUDGE STEINBERG: Can you spell his name, please?

9 THE WITNESS: K-E-I-T-H, I think it is.

10 JUDGE STEINBERG: And the last name?

11 THE WITNESS: Krohn.

12 MS. LANCASTER: K-R-O-H-N, Your Honor.

13 THE WITNESS: I'm sorry, Your Honor. Now, the
14 combination could be given to one of the service guys that
15 goes up and repairs and stuff like that. That would be all.
16 I don't know, Judy, if it's a combination or a key. I don't
17 know.

18 MS. LANCASTER: Okay, that's fine.

19 THE WITNESS: Yeah.

20 BY MS. LANCASTER:

21 Q Who supervises the personnel at DLB? Back in
22 1996, who were the supervisory personnel?

23 A Of the service?

24 Q Of any of the employees of the DLB.

25 A The sales manager had the sales, which was Randy.

1 And --

2 Q And who supervised the sales manager?

3 A I would say I did.

4 Q Okay.

5 A And you've got to remember our sales manager at
6 the time came in about the same month I did.

7 Q Right.

8 A We had a close relationship, and 99 percent of the
9 time what he recommended to me, he made good sense on, and
10 we depended a great deal with him.

11 Q Okay, what other personnel back on 1996?

12 A Graber did the service.

13 Q All right. Graber was the service manager?

14 A Yes.

15 Q He supervised service personnel?

16 A Service personnel.

17 Q And who supervised Mr. Graber?

18 A Graber reported to -- in our echelon at that time
19 of -- it really -- it's who -- you think, well, maybe the
20 sales manager and the service manager was on the same level.
21 But -- in structure, it was, but the sales manager was a
22 strong sales manager, and he listened -- Graber listened to
23 the sales manager, and because he dictated a lot of what he
24 did, what the service manager did, myself, and Pat and
25 Diane, and I say in '96 -- you said '96?

1 Q Correct.

2 A Yes.

3 Q Right. As I understand your answer, are you
4 saying that Mr. Graber reported to the sales manager also?

5 A No, he really reported to me and Pat. We don't
6 have this big structure, you know, you've got to go up the
7 chain of command.

8 Q Right.

9 A It's an extremely small company.

10 Q And back in '96, I believe you have already
11 testified it was still done by committee, the main
12 management was done by committee, is that correct?

13 A Yeah, we set in there and Pat and I and the
14 service manager and the sales manager, we would go over
15 things, and can we do this. And someone would look at the
16 books and see if we could afford to do that this month, and
17 such like that.

18 Q Yeah. How about office personnel, who did they
19 report to?

20 A They reported to Pat and Diane.

21 Q Were there any other types of personnel that I
22 haven't categorized as sales, service or office?

23 A No, that's basically it.

24 Q How about now?

25 A This is --

1 Q Who are the supervisory personnel now?

2 A I -- I do believe that David and Diane are the
3 echelons there that the sales manager and the service
4 manager reports to.

5 Q And the office personnel also?

6 A To Diane. And that could have been changed in the
7 last year.

8 Q In 1997, who did the sales manager report to?

9 A To me.

10 Q It would be the same as 1996?

11 A Yes, ma'am.

12 Q Up until the time you left, it would have been the
13 same until David and Diane have now taken over since you
14 left?

15 A Yeah, and we did -- we just don't, you know, make
16 the changes every year. It stays about the same and just
17 rolls right on through.

18 Q Okay.

19 A It's not a -- it's not one of echelon things, you
20 know, Judy, where it's set in concrete and step by step, and
21 you have to go through that.

22 Q And any monies that have come in for payment of
23 customer fees for the Allen stations have all gone into the
24 DLB account, is that correct?

25 A Would you state that one more time? I lost it.

1 Q Any monies that have -- any customer payments that
2 have come in regarding the Allen site stations --

3 A Yes.

4 Q -- they have all been deposited in the DLB
5 account?

6 A Correct.

7 Q And none -- there have been no -- no payments have
8 been made back, cash payments have been made back to any of
9 the licensees, is that correct?

10 A That's correct.

11 Q Okay.

12 JUDGE STEINBERG: Is this a convenient time for a
13 break?

14 MS. LANCASTER: Yeah, that would be great.

15 JUDGE STEINBERG: Let's take 10 minutes, be back
16 at 2:30, 2:32, 2:33.

17 (Whereupon, a recess was taken.)

18 MS. LANCASTER: We're back on the record?

19 JUDGE STEINBERG: Yes.

20 BY MS. LANCASTER:

21 Q Mr. Brasher, I would like for you to turn to
22 Exhibit 9 in the direct case exhibits.

23 MR. ROMNEY: No objection to 9 being admitted,
24 Your Honor.

25 MR. PEDIGO: No objection, Your Honor.

1 JUDGE STEINBERG: Do you move --

2 MS. LANCASTER: I would move that Exhibit 9 be
3 admitted into evidence.

4 JUDGE STEINBERG: Okay, Exhibit 9, Enforcement
5 Bureau Exhibit 9 is received.

6 (The document referred to,
7 previously identified as
8 Enforcement Bureau Exhibit No
9 9, was received in evidence.)

10 BY MS. LANCASTER:

11 Q Have you found it, Mr. Brasher?

12 A Yes, ma'am.

13 Q Do you recognize it?

14 A Yes, ma'am.

15 Q Exhibit 9 is a copy of an application submitted to
16 the Federal Communications Commission in the name of Ruth I.
17 Bearden. On page 4 of that exhibit there appears a
18 signature, Ruth I. Bearden, and in space No. 43 it's dated
19 6-18-96. Did you sign Ruth I. Bearden's name there?

20 A Yes, ma'am.

21 Q When did you do that?

22 A 6-18-96.

23 JUDGE STEINBERG: Did you write the date too?

24 THE WITNESS: Yes. Yes. It appears that. I'm
25 sure I did it, Your Honor.

1 JUDGE STEINBERG: It looks like your handwriting?

2 THE WITNESS: It looks like it.

3 BY MS. LANCASTER:

4 Q In fact, Ruth Bearden was dead on 6-18-96, is that
5 correct?

6 A That's correct.

7 Q Would you please turn to Exhibit No. 12? Do you
8 recognize that exhibit, Mr. Brasher?

9 A Yes, I do.

10 Q That is the death certificate of Ruth Irene
11 Brasher, is that correct?

12 A Yes, it is.

13 Q And her maiden name was Bearden?

14 A Correct.

15 Q Did she normally use the name Ruth Brasher or Ruth
16 Bearden?

17 A Ruth Bearden, and I'll give you a little
18 indication as to how that come about. Both Ruth and I
19 worked at Sears on the same floor. I was the assistant
20 treasurer, banking officer there in Dallas. Ruth Brasher
21 was the credit department. Our signatures to prevent, and
22 this was a request of Sears itself, that she use her maiden
23 name, R. Bearden, instead of R. Brasher, because it did
24 confuse and had the checking account and the banking account
25 at Sears in a trauma. They did not want these names being

1 out there and no one knowing exactly what it was. The
2 company asked her to change and use her maiden name.

3 Q Okay. So when was that?

4 A That was in 1972.

5 Q When did she quit working for Sears?

6 A In -- oh, man, it had to be some time in 1980, mid
7 1980, along through there, and I don't have that exact date.

8 Q Okay. Did she use the name Bearden in any other
9 area of her life?

10 A I wouldn't know that.

11 Q Did anyone in the family call her Ruth Bearden?

12 A They all just called her Ruth.

13 Q Okay. Any friends that you know of know her as
14 Ruth Bearden?

15 A Almost all at Sears knew her as Ruth Bearden.

16 Q Outside of the Sears, did any of her personal
17 friends call her Ruth Bearden?

18 A That I do not know.

19 Q Okay. Any of the employees of DLB that knew your
20 mother?

21 A That could be, but I couldn't promise you that. I
22 couldn't guarantee that.

23 Q Okay. When she wrote a personal check, what name
24 did she use on it?

25 A I have no idea. It's either Brasher or Bearden,

1 one or -- I'm sure it would probably be Brasher on her
2 personal checks. I would assume that, Judy.

3 Q You have never seen any of your mother's checks?

4 A No. My dad took care of her.

5 MS. LANCASTER: I'd like to move that Exhibit 12
6 be introduced into evidence.

7 MR. ROMNEY: No objection.

8 MR. PEDIGO: No objection.

9 JUDGE STEINBERG: Okay, Exhibit 12 is received.

10 (The document referred to,
11 previously identified as
12 Enforcement Bureau Exhibit No.
13 12, was received in evidence.)

14 MS. LANCASTER: Please look at Exhibit No. 10.

15 JUDGE STEINBERG: Let's go back to 12 for a
16 second. I should have asked this before. Let me point out
17 to Mr. Brasher there is a signature on line 28, and I am
18 pointing it out to him. Is that your father's signature or
19 do you know?

20 THE WITNESS: I don't really know. I would have
21 to assume that it almost had to be my brother because if
22 it's on the death certificate, he -- he was the first one to
23 arrive the night that she died, and he, in turn, called Sue,
24 and Sue called -- or called Pat and then Pat called Sue
25 because she was not able, and Sue came up. At that time we

1 were coaching our grandson in baseball, and I left there to
2 go see her at her -- where she was.

3 MS. LANCASTER: May I ask?

4 JUDGE STEINBERG: (Nodding.)

5 BY MS. LANCASTER:

6 Q What is your brother's middle name?

7 A Oscar, Oscar, Oscar L. Brasher. That's got to be,
8 yeah, Oscar Lawrence, and that's got to be it.

9 JUDGE STEINBERG: And who lives at 224 Molina,
10 Sunnyvale?

11 THE WITNESS: That's me.

12 JUDGE STEINBERG: And was your brother, Oscar,
13 living with you at that time?

14 THE WITNESS: No, he was not.

15 JUDGE STEINBERG: Was your father living with you
16 at that time?

17 THE WITNESS: Yes, he was.

18 JUDGE STEINBERG: I'm sorry. You are on No. 10.

19 MS. LANCASTER: Yes.

20 BY MS. LANCASTER:

21 Q Do you recognize this, Mr. Brasher?

22 A This copy, yes, ma'am.

23 Q This is a copy of a license for station call sign
24 WPJR762, the licensee is Ruth R. Bearden.

25 A Mm-hmm.

1 Q This is a license received as a result of
2 submitting the application in Exhibit 9, is that correct?

3 A Exhibit 9?

4 Q Which you have already identified as the Form 600?

5 JUDGE STEINBERG: Let him take a look at it.

6 MS. LANCASTER: Sure.

7 THE WITNESS: You're looking at Exhibit 9.

8 JUDGE STEINBERG: Yes, sir.

9 THE WITNESS: I have it.

10 BY MS. LANCASTER:

11 Q Okay, Exhibit 9 is the Form 600 application form,
12 is that correct?

13 A That's correct. That's right.

14 Q And Exhibit 10 is the license that was issued by
15 the FCC after receipt and processing of Exhibit 9, is that
16 correct?

17 A That's correct.

18 Q Okay. On Exhibit 10, there is some handwriting at
19 the top that says, to Black from R. Brasher. Please apply
20 for this frequency at this location, something, under DLB,
21 is that correct?

22 A Well, it says please apply for this at this
23 location, and I don't know what that word, other word means,
24 location something.

25 Q Is that your handwriting? Did you write that?

1 A It looks like my handwriting, but I don't remember
2 putting that on there.

3 Q Okay.

4 A And this wasn't in my file because I've never seen
5 this, a copy of this license.

6 Q Well, you recognize the license, don't you?

7 A Yeah, I do recognize the license because of the
8 frequency and the name.

9 Q And you recognize the handwriting as being yours?

10 A It looks like mine.

11 When was -- no.

12 MS. LANCASTER: Your Honor while --

13 (Pause.)

14 BY MS. LANCASTER:

15 Q At the bottom of Exhibit 10, except its upside
16 down, is a fax. You've got the first page of the exhibit,
17 first page.

18 JUDGE STEINBERG: Right here.

19 THE WITNESS: Oh, okay.

20 JUDGE STEINBERG: Fax notation.

21 BY MS. LANCASTER:

22 Q There is a fax notation at the bottom?

23 A Yes.

24 Q Indicating that a fax was sent from Metroplex Two-
25 Way Radio?